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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/033,875	12/19/2001	Ralf Dorwarth	304-773	1285

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EXAMINER

VERBITSKY, GAIL KAPLAN

ART UNIT PAPER NUMBER

2859

DATE MAILED: 05/08/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

10/033,875

Applicant(s)

Dorwarth et al.

Examiner

Gail Verbitsky

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136 (a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on Feb 20, 2003
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 2-8, 10-15, 18, and 20-60 is/are pending in the application.
- 4a) Of the above, claim(s) \_\_\_\_\_ is/are withdrawn from consideration
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 2-8, 10-15, 18, and 20-60 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claims \_\_\_\_\_ are subject to restriction and/or election requirement

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner  
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. §§ 119 and 120

- 13) ☒ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some\* c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \*See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s). \_\_\_\_\_ 6) ☐ Other:

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## DETAILED ACTION

### *Priority*

1. Acknowledgment is made of applicant's claim for foreign priority under 35 U.S.C. 119 (a)-(d).

### *Claim Rejections - 35 USC § 102*

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless -

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 3-8, 11, 13-15, 18, 20, 26-28, 32-39, 43-45, 47-48, 52-55, 57-58 are rejected under 35 U.S.C. 102(b) as being anticipated by Feldman (U.S. 6072165).

Feldman discloses in Fig. 2 a device for determining the temperature of hotplate having heating zones and thus, inherently, of a cooking vessel placed on the top surface of the hotplate, the device comprising two (at least one/ several) flat temperature measuring elements (AB surface thermocouple) 118 and 120 (silver/ color thin film/ metal foil leads) located off the center (eccentrically) of a substrate/ heater/ burner (in the vicinity of the heating zone) they are printed on (applied in a self-adhesive manner/ bonded). The elements are in a contact with the cooking vessel. The device also comprises a cold junction D- E (device for measuring the temperature of

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said measuring elements). The measuring elements have a thickness/ height). In Fig. 1, Feldman teaches that the temperature measuring element (hot junction of a thermocouple) can be positioned in the center of the heating zone. It is inherent that, since the hotplate is used for the cooking vessels/ cooking appliances, it will operate in the temperature range appropriate for the cooking appliances including 250-300 degrees C. It is also inherent that the material the measuring elements are made from (silver) is a low heat capacity and good heat conduction.

With respect to claim 20: the method steps will be met during the normal operation of the device stated above.

***Claim Rejections - 35 USC § 103***

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 12, 46, 56 are rejected under 35 U.S.C. 103(a) as being unpatentable over

Feldman in view of Gross et al. (U.S. 5893996) [hereinafter Gross].

Feldman discloses the device as stated above in paragraph 3.

Feldman does not teach to position the measuring elements in a triangular manner in the vicinity of the heating zone.

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Gross teaches to position a thermocouples' leaves/ loops (measuring elements) in a triangular manner, as shown in Fig. 2.

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the device disclosed by Feldman, so as to position measuring elements in a triangular manner, or to have the measuring element shaped, so as having three loops symmetrically positioned relative to each other, as taught by Gross, so as to be able to measure temperature at three points of the hotplate, in order to achieve more accurate results by obtaining more temperature data along the hotplate.

6. Claims 2, 21, 23-24, 29-31, 40-42, 49-51, 59-60 are rejected under 35 U.S.C. 103(a) as being unpatentable over Feldman in view of Fischer et al. (U.S. 4431908).

Feldman discloses the device as stated above in paragraph 3.

Feldman does not teach that the measuring device is located below the hotplate.

Fischer discloses a device in the field of applicant's endeavor wherein a temperature measuring and responding device 41 is located below the surface of the hot plate.

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the device disclosed by Feldman, so as to locate the temperature measuring device under the hot plate, as taught by Fischer, in order to provide the device with an esthetic appearance by hiding the measuring device and its circuit under the hotplate.

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With respect to claim 21: the method steps will be met during the normal operation of the device stated above.

7. Claims 10, 25 are rejected under 35 U.S.C. 103(a) as being unpatentable over Feldman.

Feldman discloses the device as stated above in paragraph 3.

Feldman does not teach the particular height (thickness) of the measuring element over the hotplate, as stated in claims 10, 25.

With respect to the particular height of the measuring element, i.e., 0.05 and 0.15 mm above a top surface of cooktop, the particular height (size), absent any criticality, is only considered to be the “optimum” size of the device disclosed by Feldman that a person having ordinary skill in the art at the time the invention was made would have found obvious to provide using routine experimentation based, among other things, on the intended use of the device, the particular temperature range and aesthetic requirements. *See In re Boesch*, 205 USPQ 215 (CCPA 1980). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the measuring element of the device disclosed by Feldman, so as to make it projecting 0.05 to 0.15 mm over the top surface of the hotplate, i.e., high enough so as to make the cooking zone distinct from other zones, and low enough to prevent a cooking pot from falling over, if the pot is not properly positioned on the cooking zone.

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*Response to Arguments*

8. Applicant's arguments with respect to claims 2-8, 10, 11-15, 18, 20-60 have been considered but are moot in view of the new ground(s) of rejection.

*Conclusion*

9. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The prior art cited in the PTO-892 and not mentioned above disclose related devices and methods.

10. Any inquiry concerning this communication should be directed to the Examiner Verbitsky who can be reached at (703) 306-5473 Monday through Friday, 7:30 to 4:00 ET.

Any inquiry of general nature should be directed to the group Receptionist whose telephone number is (703) 308-0956.

GKV

May 05, 2003

Gail Verbitsky



*Patent Examiner, TC 2800*